

AG Contract No. KR97 0042TRN  
ADOT ECS File No. JPA 96-170  
TRACS No.: H 3155 01C  
Project: 70 GH 294 H4022 01C  
Section: US-70 Bylas

INTERGOVERNMENTAL AGREEMENT  
AMONG  
THE STATE OF ARIZONA,  
THE UNITED STATES DEPARTMENT OF INTERIOR,  
THE BUREAU OF INDIAN AFFAIRS  
AND  
THE SAN CARLOS APACHE TRIBE

THIS AGREEMENT is entered into 11 September, 1997,  
pursuant to Arizona Revised Statutes, Sections 11-951 through 11-  
954, as amended, between the STATE OF ARIZONA, acting by and  
through its DEPARTMENT OF TRANSPORTATION (the "State"), the  
UNITED STATES DEPARTMENT OF INTERIOR, BUREAU OF INDIAN AFFAIRS,  
acting by and through its Contracting Officer (the "Bureau"), and  
the SAN CARLOS APACHE TRIBE, acting by and through its TRIBAL  
COUNCIL (the "Tribe").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes  
Section 28-108 to enter into this agreement and has by  
resolution, a copy of which is attached hereto and made a part  
hereof, resolved to enter into this agreement and has delegated  
to the undersigned the authority to execute this agreement on  
behalf of the State.

2. The Bureau is empowered by Section 23 and 204 (b), (c)  
and (d) U.S.C. 308 (a) to enter into this agreement and has by  
resolution, a copy of which is attached hereto and made a part  
hereof, resolved to enter into this agreement and has authorized  
the undersigned to execute this agreement on behalf of the  
Bureau.

3. The Tribe is empowered to enter into this agreement  
pursuant to its Tribal Constitution Article V and Council  
Resolution, a copy of which is attached hereto and made a part  
hereof, resolved to enter into this agreement and has authorized  
the undersigned to execute this agreement on behalf of the  
Bureau.

4. Incident to a highway improvement project contemplated  
by the State on US-70 at Bylas, including roadway improvements,  
highway lighting and a pedestrian walkway along the roadway, the  
State, the Tribe and the Bureau desire to define their respective  
responsibilities in the maintenance and operation of the  
improvements.

THEREFORE, in consideration of the mutual agreements expressed  
herein, it is agreed as follows:

NO. <u>21878</u>
FILED WITH SECRETARY OF STATE
Date Filed <u>09/11/97</u>
<u>James Lee Hull</u> Secretary of State
By <u>Vicky Greenwood</u>

## II. SCOPE OF WORK

### 1. The State will:

a. Provide to State standards design plans, specifications and such other documents and services required for construction bidding and construction. Incorporate Bureau comments as appropriate.

b. Call for bids and award one or more construction contracts for the improvements. Administer same and make all payments to the contractors. Be responsible for any contractor claims for extra compensation.

c. Upon completion, approve and accept the improvements on behalf of the parties hereto and provide maintenance within the State right-of-way, except for the pedestrian walkway and highway lighting.

### 2. The Bureau will:

a. Review the design documents and provide comments.

b. Upon completion and acceptance of the improvements by the State on behalf of the parties hereto provide maintenance to the pedestrian walkway.

### 3. The Tribe will:

a. Review the design documents and provide comments.

b. Upon completion and acceptance of the improvements by the State on behalf of the parties hereto, provide maintenance to the highway lighting and electrical energy to operate the highway lighting, at an estimated cost of \$17,000.00 per year.

## III. MISCELLANEOUS PROVISIONS

2. This agreement shall remain in force and effect until completion of the improvements; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, may be cancelled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party.

3. This agreement shall become effective upon filing with the Secretary of State.

4. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

5. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

6. Applicable laws and regulations of the State and the Tribal government shall govern the rights of the parties with respect to the performance of this agreement. The parties hereto shall select a process for the resolution of claims or disputes relating to this agreement, compliant with applicable laws and regulations of the State, the Tribe and the Federal government, and acceptable to the State, the Tribe and the Federal government. Such process shall include a provision for arbitration.

7. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation  
Joint Project Administration  
205 South 17 Avenue, Mail Drop 616E  
Phoenix, AZ 85007

United State Department of Interior  
Bureau of Indian Affairs  
Branch of Roads  
P.O. Box 209  
San Carlos, AZ 85550

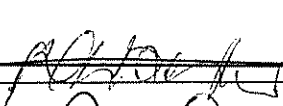
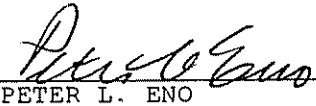

San Carlos Apache Tribe  
Chairman  
PO Box 0  
San Carlos, AZ 85550

7. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under applicable laws to enter into this agreement and that the agreement is in proper form.


IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

UNITED STATES DEPARTMENT  
OF THE INTERIOR  
BUREAU OF INDIAN AFFAIRS

STATE OF ARIZONA  
Department of Transportation

By  By   
PETER L. ENO  
Contract Administrator  
By  Date of Approval: 8/27/97

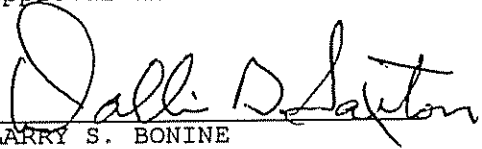
~~SAN CARLOS APACHE TRIBE~~  
Joe Laplante, Superintendent  
Bureau of Indian Affairs, San Carlos Agency, by authority contained in 209 DM 8,  
Secretary's Order Nos. 3150 and 3177, as amended, 10 BIAM Bulletin 13, as amended  
and 10 BIAM 11.

By   
RAYMOND STANLEY  
Chairman  
San Carlos Apache Tribe

RESOLUTION

BE IT RESOLVED on this 1st day of November 1996, that I, the undersigned LARRY S. BONINE, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with the US Bureau of Indian Affairs for the purpose of defining responsibilities for the design, construction and maintenance of highway lighting and sidewalk improvements on US-70 at Bylas.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Contract Administrator for approval and execution.

  
for LARRY S. BONINE  
Director

APPROVAL OF  
THE SAN CARLOS APACHE TRIBE ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, the US DEPARTMENT OF THE INTERIOR, BUREAU OF INDIAN AFFAIRS, and the SAN CARLOS APACHE TRIBE and declare this agreement to be in proper form and within the powers and authority granted to the Tribe under the laws of the Tribe.

DATED this 14<sup>th</sup> day of March, 1997.

  
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Tribal Attorney

SAN CARLOS APACHE TRIBE  
SAN CARLOS INDIAN RESERVATION  
SAN CARLOS, ARIZONA

R E S O L U T I O N

No. JN-97-91

WHEREAS, The San Carlos Apache Tribe is a federally recognized Indian Tribe organized pursuant to the provisions of Section 16 of the Indian Reorganization Act of June 18, 1934, (48 Stat.,984), and,

WHEREAS, The San Carlos Tribe, the Bureau of Indian Affairs and the State of Arizona, through the Department of Transportation wish to enter into an Intergovernmental Agreement for the purpose of installing street lights and sidewalks from the Bylas Lutheran School to the R & S Market, all within U.S. Highway 70 right-of-way; and,

WHEREAS, The Department of Transportation will comply with environmental laws in planning the above mentioned improvements; and,

WHEREAS, The installation of street lights and sidewalks will be of benefit to the Tribe by providing a safer environment for the residents of Bylas and the traveling public along this portion of U.S. Highway 70; and,

WHEREAS, Upon completion of the installation of the street lights and sidewalks, the Department of Transportation will transfer those improvements to the San Carlos Apache Tribe and the San Carlos Apache Tribe will then assume responsibility for maintenance of said improvements and will also pay for the electricity for operation of the street lights.

NOW, THEREFORE BE IT RESOLVED THAT the Tribal Chairman or his authorized designee are hereby authorized to sign the Intergovernmental Agreement including any necessary modifications thereto.

BE IT FURTHER RESOLVED THAT the San Carlos Apache Tribal Council hereby authorizes the Bureau of Indian Affairs to approve the Intergovernmental Agreement including any necessary modifications thereto.

C E R T I F I C A T I O N

I, the undersigned Secretary of the San Carlos Apache Tribal Council hereby certify that the Tribal Council is presently composed of eleven (11) members of whom eleven (11), constituting a quorum were present at a Special Council meeting hereto held on the 6th day of June, 1997, and that the foregoing Resolution No. JN-97-91 was duly adopted by a vote of FOR 6; OPPOSED 0; of the Tribal Council pursuant to Article V, Section (a) of the Amended Constitution and Bylaws of the San Carlos Apache Tribe effective February 24, 1954

  
Josephine Goode, Tribal Secretary

DETERMINATION


Arizona Contract No. JPA 96-170, which is an agreement between public agencies; to wit; the STATE OF ARIZONA, DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF INDIAN AFFAIRS, and the SAN CARLOS APACHE TRIBE, has been reviewed by the undersigned for the United States who has determined that it is in the proper form and within the powers and authority granted to the United States.

No opinion is expressed as to the authority of the State of Arizona to enter into said agreement.

DATED this 27th day of August, 1997.

THE UNITED STATES OF AMERICA

By

  
Joe LaPlante, Superintendent  
San Carlos Agency  
Bureau of Indian Affairs  
San Carlos, Arizona 85550



GRANT WOODS  
ATTORNEY GENERAL

STATE OF ARIZONA  
OFFICE OF THE ATTORNEY GENERAL  
1275 WEST WASHINGTON, PHOENIX 85007-2926

TRN Main: (602) 542-1680  
Direct: (602) 542-8837  
Fax: (602) 542-3646  
MAIN PHONE : 542-5025  
TELECOPIER : 542-4085

**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR97-0042TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED August 29, 1997.

GRANT WOODS  
Attorney General

JAMES R. REDPATH  
Assistant Attorney General  
Transportation Section